

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 15955 of 1993

Between:

Siddabathuni Nagabhushanam, S/o. Lakshmipathi,
R/o. 11.28.9/2/9/3, RamiReddy pet,
Narasaraopet, Guntur District.

..... PETITIONER

AND

- 1 Special Court under Andhra Pradesh Land Grabbing
(Prohibition) Act, Hyderabad.
- 2 Special Tribunal, Andhra Pradesh Land Grabbing (Prohibition)
Act, Guntur.
- 3 The Municipal Commissioner,
Narasaraopet, Guntur District.
- 4 The Mandal Revenue Officer,
Narasaraopet, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ or direction calling for the records relating to the order of the 1st respondent passed in L.A.G.No.2 of 1993 dated 15/07/1993 confirming the order of the 2nd respondent passed in L.G.O.P.No.66/1989 dated 02/12/1992 and quash the same.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondent Nos.1,2 &4: GP FOR ASSIGNMENT

The Court made the following ORDER:

ORDER: (Per Sri B.Sudershan Reddy, J)

Respondent Nos. 3 and 4 herein, filed L.G.O.P.No.66 of 1989, on the file of the Special Tribunal under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (for short 'the Act'), Guntur, against the petitioner herein, *inter alia* alleging that he has grabbed Government land vested in the Municipality to an extent of 1260 Square feet in T.S.No.736, Ward No.1, Block No.10 within the Municipal limits of Narasaraopet.

The petitioner herein filed a counter-affidavit contending that the petition schedule land was originally under the occupation of one Challagalli Pitchaiah since 1941 and he executed a hand letter in favour of the petitioner and he resided in that land eking out his livelihood and that he had no other properties. He constructed two roomed terraced building in 1984 and the same was assessed by the Municipal Corporation and electric connection was also given. The Special Tribunal after an elaborate consideration of the matter found the petitioner to be a land grabber and accordingly, ordered his eviction from the petition schedule land.

The petitioner preferred L.G.A.No.2 of 1993 against the order passed by the Special Tribunal. The Special Court upon re-appreciation of the evidence found no merit in the appeal and accordingly confirmed the order passed by the special Tribunal.

There is no dispute whatsoever and as is evident from Ex.A.1, extract of Town Survey Register that the land in question is a Government land. The whole of the petitioner's case vested on the assertion that he has been in possession from 1956 onwards and thereafter perfected his title by adverse possession. But the petitioner could make available the evidence in support of his case showing his possession only from 1985 on words.

It is under those circumstances, the Special Tribunal as well as the Special Court came to the conclusion that the petitioner miserably failed to establish his case based on adverse possession. The findings so recorded by the Tribunals below, in

our considered opinion, are not initiated for any reason requiring our interference in exercise of our certiorari jurisdiction.

Sri O. Manohar Reddy, learned counsel for the petitioner, however, relied upon Ex.B.1 dated 10.10.1968, provisional patta granted by Tahasildar, Narasaraopet, in favour of the petitioner, which according to the learned counsel for the petitioner would substantiate the claim of the petitioner that he is not a land grabber. The contention is that the possession of the petitioner is lawful and traceable to Ex.B.1 dated 10.10.1968.

We find no merit in the submission for more than one reason. The petitioner all through asserted his possession ever since 1956 onwards *inter alia* contending that he has perfected his title by prescription, but failed to establish the same. It is not the case of the petitioner that he has entered in to possession of the land in question under Ex.B.1 dated 10.10.1968. The day when he occupied the land is admittedly without any lawful entitlement. It is thus clear that the petitioner knowingly that he has no lawful entitlement to enter into the land, occupied the same, without any semblance of right, title and claim. In the circumstances, the view taken by the Tribunals below that the petitioner is a land grabber within the meaning of the provisions of the Act, in our considered opinion, is not vitiated.

Be it as it may, the petitioner did not take advantage of grant of Ex.B.1– provisional patta certificate dated 10.10.1968 since he did not comply with the terms and conditions subject to which patta has been granted, namely failed to deposit the amounts as required under Ex. B.1. The possession of the petitioner at the inception was illegal and continue to be so since he did not take advantage of Ex.B.1 - provisional patta granted by the Tahsildar.

In the circumstances, we are of the clear opinion that petitioner is a land grabber within the meaning of the provisions of the Act.

It is brought to our notice by the learned counsel for the petitioner that the petitioner is a land less poor person and entitled for regularization of his illegal possession and in the light of various decisions taken by the Government subject to payment of certain amounts. It is also brought to our notice that various individuals like the petitioner are in possession of adjoining areas against whom no proceedings have been initiated. This submission appears to be based on certain observations made by the Special Tribunal in its order. Having regard to the same,

we leave it open to the respondents to take an appropriate decision, if they so desire and consider as to whether the petitioner is a land less poor person and entitled to the benefit of Government policy decision for regularization of his illegal possession.

With the above observations as above, the writ petition shall stand dismissed.
No costs.

B. SUDERSHAN REDDY,J

K.C. BHANU,J

Date: 28.09.2004

va/ks

Note: Registry is directed to mark a copy of this order
to the District Collector, Guntur.

B/o.

va/ks

To

1. The District Collector, Guntur.
2. The Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad.
3. The Special Tribunal, Andhra Pradesh Land Grabbing (Prohibition) Act, Guntur.
4. The Municipal Commissioner, Narasaraopet, Guntur District.
5. The Mandal Revenue Officer, Narasaraopet, Guntur District.
6. Two CCs to G.P for Assignments, High Court of A.P. Buildings, Hyderabad (OUT)
7. Two CD Copeis